

## MEETING RECORD

**NAME OF GROUP:** City Board of Zoning Appeals

**DATE, TIME AND**

**PLACE OF MEETING:** Friday, April 27, 2001, 1:30 p.m., Council Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS AND OTHERS**

**IN ATTENDANCE:** **Members:** George Hancock, Gene Carroll, and Tom Wanser

**Others:** Rick Peo (City Law Dept.), Roger Harris (Building & Safety), Jason Reynolds and Missy Minner (Planning Dept), applicants and other interested parties.

**STATED PURPOSE**

**OF THE MEETING:** Regular monthly meeting of the City Board of Zoning Appeals

Hancock called the meeting to order and requested a motion to nominate a chair. Wanser moved that George Hancock be nominated chair, seconded by Carroll. Motion carried 3-0; Wanser, Carroll, and Hancock voting 'yes'.

Hancock called for a motion to nominate a vice-chair. Wanser moved that nomination of vice-chair be tabled until the next meeting, seconded by Carroll. Motion to table carried 3-0; Wanser, Carroll, and Hancock voting 'yes'.

Hancock requested a motion approving the minutes of the February 23, 2001 meeting. Motion for approval made by Carroll, seconded by Wanser. Motion carried 3-0; Carroll, Wanser, and Hancock voting 'yes'.

### **City Board of Zoning Appeals No. 2305**

**Requested by Barry King for a variance of the front yard on property located at 1179 Furnas Ave.**

**PUBLIC HEARING**

**April 27, 2001**

Members present: Hancock, Wanser, and Carroll

Barry King appeared and distributed copies of her presentation to the Board (see attached Exhibit A).

Wanser asked about the possibility of moving the structure to the west 3 feet. Harris stated that would require a variance of the side yard. Currently, no variance of the side yard has been requested.

Hancock asked if she was intending to build a new driveway. King indicated that the north existing driveway would be removed, the curb would be replaced and the proposed driveway would access off 12<sup>th</sup> Street directly east of the proposed garage. The garage doors will be on the east side.

Hancock asked if it would be possible to use the existing driveway. King stated that she would have to remove the large tree in her yard.

With no one further appearing, the public hearing was closed.

## **ACTION**

**April 27, 2001**

Members present: Hancock, Wanser, and Carroll

Wanser stated that his instincts go toward approving this request. He would like to minimize the impact of the garage extending some 5 feet beyond the other structures in the area. He suggested that one way to accomplish that would be to move the structure to the west 3 feet.

Carroll indicated that since the applicant has the opportunity to build a single stall garage either off the alley or using the existing driveway, he is inclined to deny the application. If the garage is placed where she wants it, it causes a sight problem in alley. This problem existed when she purchased the lot.

Hancock indicated that a one-stall garage is adequate and reasonable use. He agrees that there are other ways of getting a car parked back there.

Carroll moved denial, seconded by Hancock. Motion failed 2-1; Carroll and Hancock voting 'yes'; Wanser voting 'no'. This item will be held over for action at the next meeting of the Board of Zoning Appeals.

## **City Board of Zoning Appeals No. 2305**

**Requested by James Wiebelhaus for a variance to average lot width on property located at 2260 Holdrege Street.**

## **PUBLIC HEARING**

**April 27, 2001**

Members present: Hancock, Wanser, and Carroll

Jim Wiebelhaus appeared. He is requesting a variance from 50 feet to 46 feet. He has an agreement to purchase with the property owner for a set price with a contingency that a variance be granted. His hardship without a variance is not being able to construct a quality home that would add to the value of the lot. He desires to have quality tenants that would take pride in the home. All homes in this area are built on substandard lots. His design would fit in with the character of the neighborhood. He hopes to have the most attractive home on the block, thus increasing the value of the surrounding homes. His plan is to build a duplex.

Carroll asked if he can bring this application forward since he does not own the property. Peo stated that he can bring it with the permission or authority of the owner to make the request. The agreement for purchase indicates the owners authorization for the request.

Don Tapp, current property owner, appeared. He acquired the property in January after the house had been sitting vacant for several months. He made necessary improvements to bring the house up to standard. Granting this variance would make the lot marketable. There is a duplex on the lot to the east which is smaller than this lot is. It would be fitting within the neighborhood to have new properties. It would improve the neighborhood. He owns the lot to the west, he purchased both lots in January as one unit.

Carroll asked if he understood the limitations to the size of the lots for building purposes at the time he purchased them. Tapp stated that he was aware that he would need a variance. At that time, he was not interested in obtaining the variance. He wanted to get the other house fixed up before proceeding with any action on this lot. The sale contract is for both the house and this lot.

Carl Teshe, appeared on behalf of the Clinton Neighborhood. In addition to the letter submitted to the Board by the Neighborhood Association, he added that as the property sits, it is one of the nicer lots west of 27<sup>th</sup> Street. The Clinton Neighborhood would prefer that this stay one of the more viable lots. As time passes and renters go through the property, it will get more difficult to rent. If the variance is granted, it creates a problem by allowing 2 smaller lots. The Neighborhood would ask that this variance not be allowed.

Delores Lintell, member of Clinton Neighborhood Organization Board appeared. She has lived in this area for over 40 years. They have been working diligently to upgrade housing and general living conditions in the area. There is a focus area plan in place, in conjunction with Urban Development, to continue to upgrade the housing. Granting this variance would not be in conformance with that focus area plan. She would prefer that the variance not be granted.

With no one further appearing, the public hearing was closed.

**ACTION**

**April 27, 2001**

Members present: Hancock, Wanser, and Carroll

Carroll asked about the possibility of restricting the use to a single family dwelling. Peo stated that a variance could be restricted to what is reasonable use.

Wanser asked if a permit could be issued to build a single family dwelling on the lot as it stands. Peo indicated that the same variance is needed whether it is for a single family dwelling or a duplex.

Wanser moved denial of the variance, seconded by Carroll. Motion for denial carried 3-0; Wanser, Carroll, and Hancock voting 'yes'.

**City Board of Zoning Appeals No. 2304**

**Requested by Nikolay Popov for a variance to the front yard setback on property located at 2343 NW 7<sup>th</sup> Street.**

**ACTION**

**April 27, 2001**

Members present: Hancock, Wanser, and Carroll

Hancock asked for a presentation of the new materials relative to this application.

Reynolds appeared. The Board had received a memo from Jean Walker, Planning Department Administrative Officer, stating that the Planning Commission had recommended approval for the application for street vacation. Subsequent to that recommendation, he spoke with Roger Figard, City Engineer, who stated that Public Works no longer supports the vacation of that street right-of-way. The City will be withdrawing the street and alley vacation. That alternative has been explored and exhausted.

Hancock asked about the report the Board requested from the footings inspector. Harris apologized for not having that report. He was not aware of that request. He understood that there had been a request that this be held over to next meeting so the applicant could attend.

Hancock stated that the Board is too often asked to correct errors made by City employees. This results from an error made by a city employee. Perhaps the applicant could have been more diligent, but he followed the instructions given to him by the City authority. The City is now declining to take the one step they could take to rectify this situation. Since this application was held over to this meeting, can action be taken on it? Peo stated that the Board has that right. Planning staff is saying that the application before the City Council would have a negative recommendation from Public Works staff. He had asked that this be placed on pending at City Council until he had the opportunity to draw up an agreement with regard to the utility easement.

Carroll asked if the question of the authority of the Board on this issue had been clarified. Peo indicated that research turned up results on both sides. There is no Nebraska case law stating what is to be done.

Hancock moved approval, seconded by Wanser.

Hancock stated that while it is a stretch to do so under the guidelines of the Board, he believes that this is peculiar because the applicant was misguided by the City.

Carroll agreed there appears to be no relief for the applicant.

Motion for approval carried 3-0; Hancock, Wanser, and Carroll voting 'yes'.

There being no further business, the meeting adjourned at 2:10 p.m.

Please note:

Due to file size

Exhibit A will not included

in Internet version of the minutes.